**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**ORDINARY ORIGINAL CIVIL JURISDICTION**

**WRIT PETITON NO.3192 OF 1991**

M/s.Ramgopal Textiles Mills (P) Ltd. & one ..Petitioners.

V/s.

Union of India & Ors. ..Respondents.

Mr.Madhukar Baya i/b. M.N.Gawankar for petitioners.

Mr.H.V.Mehta for respondents.

**CORAM : S.RADHAKRISHNAN AND J.P.DEVADHAR, JJ.**

**DATED : 13TH JANUARY, 2005.**

**P.C. :-**

1. Heard learned counsel for the petitioners and respondents. In the above matter, consignment of Polyester Filament Yarn was imported by the petitioner No.1 on actual user basis and a Bill of entry No.IGM 1041 /102 was filed for warehousing. Petitioner No.1 had also executed warehousing bond on 30/4/1990. As the petitioners were unable to clear the goods, the petitioner No.1 applied for permission for transfer of the said warehoused goods to the petitioner No.2. The Textile Commissioner on 19/4/1991 permitted transfer and / or sale of the said goods to the petitioner No.2 and accordingly, the goods were sold to the petitioner No.2. Thereafter,

the petitioner No.2 cleared the warehoused goods under an advance licence without payment of duty. The Customs Department by its communication dated 26th September, 1991 directed the petitioners to pay interest on the aforesaid goods till the date of ex-bonding.

2. Challenging the said demand of interest, the present petition is filed. Learned counsel for the petitioners relied on the Judgments of the Supreme Court in the case of **Pratibha Processors V/s. Union of India** reported in **1996 (88)E.L.T. 12 (S.C.) Commissioner of Customs, Chennai V/s. Jayanthi Krishna & Co.** reported in **2000(119) E.L.T. 4 (S.C.)** and submitted that when the goods are cleared without payment of duty the customs authorities cannot charge interest under section 61 of the Customs Act. Even learned counsel for the respondents concedes that no duty was payable on the goods at the time of clearance of the goods. In view of the aforesaid Judgments of the Supreme Court, the petitioners are not liable to pay any interest. Rule is accordingly made absolute in terms of prayer clause (a). However, there will be no order of costs.

**(S.RADHAKRISHNAN, J.)**

**(J.P. DEVADHAR, J.)**